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*The nation's most influential advocacy organization
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October 22, 2018

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: Children's Television Programming Rules, MB Docket No. 18-202

Dear Ms. Dortch:

The Parents Television Council is a non-partisan, non-profit organization working to create a safe and sound entertainment media environment for children and families. Since its establishment in 1995, nearly 1.4 million Americans have joined with the PTC. We respectfully offer our Reply Comments to the Children's Television Programming Rules ("Kid Vid") NPRM.

It's safe to presume that every commenter in this proceeding would agree that the television marketplace has changed a bit since the Children's Television Act of 1990 was signed into law.

What hasn't changed is that broadcasters are able to use the publicly-owned airwaves for free, in exchange for serving the public interest. Providing children with Educational/Informational programming continues to be one component of a broadcast licensee's public interest obligation. The debate before us today centers on how to define and measure that obligation in light of the transformational changes the television industry has experienced, especially in recent years.

Make no mistake; the Kid Vid rules need to be reviewed and updated, not just to better serve the public interest, but also to provide broadcasters and the public with greater certainty. We observed that the words "certainty" or "uncertainty" were used in the NPRM no less than ten times; and one need only read the NPRM's "Background" section to understand that a review of the rules is both reasonable and long overdue. We commend Commissioner O'Rielly for taking the reins in what already has been a rough ride.

Based on our thorough reading of the NPRM and all public comments filed thus far, this NPRM process should cease; and in its place the FCC should engage in a more thorough, deliberative, comprehensive and strategic review process, including public hearings. A doctor should not prescribe a litany of prescriptions before carefully examining a patient and diagnosing an illness; and neither should the FCC prescribe a litany of prescriptive remedies without a more thorough examination of what ails the Kid Vid issue. Simply stated, this NPRM process does not adequately provide for such an examination.

Before any material changes to the Kid Vid rules can reasonably be considered, foundational questions must be answered, including: What are the Educational/Informational needs of children, especially in light of the rapid and massive evolution in media technology? What is the public interest obligation of a broadcaster in the 21st Century; and when does an obligation become a burden? What has been the impact of Educational/Informational TV content on children in recent years; and how does that impact differ when compared to a decade ago, or two decades ago? If children aren't watching today's E/I content, why is that; and what can/should be done to make it more appealing?

The NPRM and public comments have failed to answer these foundational questions. Yet a number of the rule changes proposed in this NPRM are so strategic to Kid Vid policy that they cannot reasonably be considered until the aforementioned questions are answered. On the other hand, some of the proposed rule changes (such as frequency of reporting) are only tactical, and reasonably could be considered in this NPRM so as to lessen a broadcaster's burden.

An error in premise usually leads to an error in conclusion; and one of the foundational considerations of this NPRM is based on error; to wit, that the NPRM itself – and a host of the commenters – seem to equate Children's Programming with Children's Educational/Informational Programming. These terms are not synonymous. The enumerated alternatives to linear broadcasting most assuredly offer a greater volume of *entertainment* for young children, but they are hardly *educational*.

As of this writing, which is approximately 6:00 pm Pacific Time on Monday, October 22, 2018, roughly four dozen individuals, organizations or corporations have filed formal comments for review on the FCC's website. Most of the commenters are broadcasters; and they stand to make a whole lot of money if the NPRM's proposals are adopted. A few of the commenters are programmers; and they stand to lose a whole lot of money if the NPRM's proposals are adopted. Nestled in between are individuals and public policy groups, some of which advocate for children and others of which advocate for a diminished role by the federal government. The former oppose the NPRM's proposals and the latter endorse them.

Missing entirely from this dialogue are educators, experts in the field of children's physical and mental health, and parents.

Thus far, the proposed rule changes appear to be driven primarily by corporate profit. For the record, we like it when companies generate bigger profits. Bigger profits lead to increased investment, increased employment, an overall financial benefit to the economy, and higher taxes to help underwrite the expensive operation of our nation's government. It is undeniable that the three-hour weekly time block currently set aside for Kid Vid content would generate bigger dollars if used for something other than airing Kid Vid content. But as we consider such an important public interest obligation, we must examine it beyond the corporate financial impact that would come from reducing, altering or eliminating the existing Kid Vid rules.

It is ironic, perhaps even troubling, that many of the proposed rule changes advocated by broadcasters are actually antithetical to their core business. They say that Kid Vid programming need not be regularly scheduled; yet every program that airs during every other daypart is regularly scheduled. They say that multicast platforms are just as good for Kid Vid content; yet they would never, ever, relegate their other original programming to multicast platforms. They say that Kid Vid content could be pushed to a broadcaster's website; yet they would never, ever, suggest the same for their other original programming. They say that on-air notification and digital on-screen programming guides create a burden; yet they would never weaken those same elements for any of their other dayparts. They say that they would use the Kid Vid time slots to produce and air other more important local programming; but they could produce that other programming today and air it on their multicast platforms, if they wanted to. But they don't. Why not? They say that a 30-minute program is an unreasonable requirement; yet they don't air any other regularly

scheduled programming that is less than 30 minutes in length. (For the record, the PTC agrees that Kid Vid programming could be less than 30 minutes in length, citing such exemplary programming as *Schoolhouse Rock* and *In the News*.)

Commenter Gray suggests that six hours per calendar quarter is a burden for its regulatory record-keeping. That sounds like a lot of wasted time; but with 65 business days per quarter, that means five and a half minutes per day of record-keeping is required. Is that really a burden? Perhaps. Gray also suggests expanding the hours when Kid Vid content could be aired. Would they agree then that the FCC's Broadcast Indecency rules also be altered to reflect that same expanded time window? Commenter Nexstar points to all manner of content that they couldn't produce or air because of Kid Vid; yet the multicast platform they suggest as being adequate for Kid Vid is apparently inadequate for that other content they chose not to produce or air. Sadly our commenter friends at the National Religious Broadcasters refer to Kid Vid regulations as a "scheme" no less than six times. And commenter Block openly admits that the only reason Kid Vid airs is so they can "check a box" for licensing purposes. This hardly connotes a commitment to the public interest; and it certainly does not connote a commitment to the educational and informational needs of children.

We agree with several of the arguments put forth by the broadcasters in their public comments, and we believe they deserve careful consideration. Most importantly, broadcasters absolutely deserve greater certainty when it comes to honoring their Kid Vid obligations. They deserve a system that is not unreasonably burdensome or wasteful. But we disagree with other of their arguments, some of which entirely contradict the way they do business during the other 165 hours per week.

This NPRM does not, and realistically cannot, address most of these critical issues. Neither does it address the concerns of Kid Vid programmers, some of which offer public comments that are just as financially self-serving as the broadcasters' arguments. But they understand the economics of producing kids' E/I programming better than anyone, and their voices are critical to the dialogue.

If the public interest is to be served, then the Kid Vid NPRM should be paused, and the matter should be addressed in a more strategic regulatory review process.

Respectfully submitted,



Timothy F. Winter
President